IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 16 OF 2007.
IN
CRIMINAL APPEAL NO. 587 OF 2006

Anwar Ayub Haid Khan ...Applicant
V/s
The State of Maharashtra ... Respondent

Ms. Pooja Bhojane, Advocate with Mr. Nitin Sejpal, Advocate for the applicant.

Mrs. M.M. Deshmukh, APP for the State.

CORAM : J.H. BHATIA, J.

DATE : 24TH JANUARY, 2007.

P.C.

. Heard Ms. Pooja Bhojane, learned Counsel for the applicant and Mrs. Deshmukh, learned APP for the State. Applicant, Anwar Ayub Habid Khan and his brother Sarvar Ayub Habid Khan were convicted for the offence punishable under Section 304 (I) of Indian Penal Code and were sentenced to undergo R.I. for 7 years and to pay fine of Rs. 1000/- each. They have preferred appeal against the said Judgment and order of conviction and sentence. Accused No.1, Sarver Khan filed Criminal Application No..1149/2006, in which this Court granted bail by order dated 21st December, 2006. After that the

present applicant, who is accused No.2 has filed this application seeking bail pending final hearing and disposal of the appeal.

2. According to the prosecution story, the applicant and his brother Sarvar assaulted on the head of the deceased with Truck Tommy and the present applicant also assaulted the complainant, who is son of the deceased. Due to the injuries on head deceased died. While granting bail to Sarvar, this Court (Coram: Abhay S. Oka, J.) noted that there were certain erasions and additions in the original record. Initially it was registered as accidental death but later on change was made. It was brought on record that the statement of PW 1, who is son of the deceased, was recorded twice but in spite of request made by the defence, the first statement was not produced before the Court. It would be difficult to distinguish the case of accused Sarvar Khan from the case against the present applicant, who is accused No.2. On the principle of parity the present applicant also deserves to be granted bail.

3. The applicant is granted bail in sum of Rs.

15,000/- with a local surety in the like amount on the following conditions.

(i) The bail is granted subject to condition that the applicant will not enter the Districts of Mumbai and Mumbai Suburban till disposal of the appeal.

(ii) The order granting bail will be given effect to only after the applicant furnishes the complete address of his place of residence where he proposes to reside after being enlarged on bail.

(iii) The bail is granted subject to condition that the applicant will report to the concerned Police Station within whose jurisdiction he will be residing after being enlarged on bail on first Saturday of every Calender month till disposal of the appeal.

(iv) The order granting bail will be given effect to only after the fine amount is deposited by the applicant.

(v) The application is disposed off in the above terms.

(J.H. BHATIA, J.)